

EXHIBIT C

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

FEDERAL TRADE COMMISSION, *et al.*,

Plaintiffs,

v.

AMAZON.COM, INC., a corporation,

Defendant.

Case No. No. 2:23-cv-01495-JHC

**[AMAZON'S PROPOSED] ORDER
REGARDING REMOTE DEPOSITIONS**

~~Plaintiffs Federal Trade Commission and the states and territories of New York, Connecticut, New Hampshire, Oklahoma, Pennsylvania, Delaware, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, Oregon, Puerto Rico, Rhode Island, Vermont, and Wisconsin, acting by and through their respective Attorneys General ("Plaintiffs") having filed a Joint Motion for an Order Regarding Remote Depositions ("Motion"), and the Court having considered all papers filed in support and in opposition of the Motion, including all filings and memoranda of law concerning this matter, the Motion is GRANTED. Accordingly, the Court orders the following protocol regarding depositions in this matter:~~

Pursuant to Federal Rule of Civil Procedure 29(a), the parties agree to and the Court orders the following protocol regarding depositions in this matter:

A. General Principles:

The Federal Rules of Civil Procedure, Local Civil Rules of the Western District of Washington, this Court's Order re Deposition Limits (Dkt. # 166), and this Court's other orders, rules, and procedures (collectively, the "Rules"), shall govern depositions in this action except where the provisions contained herein alter or supplement the Rules.

B. Deposition Format.

~~The~~Consistent with Federal Rule of Civil Procedure 30(b)(4), depositions ~~offor all~~ witnesses ~~in this case~~located within the United States shall ~~be conducted by a remote videoconference platform at the election of the noticing party~~occur in person unless ~~otherwise agreed by all the~~ Parties and the deponent. ~~If a non-party has been cross-noticed for deposition by the parties and the parties disagree about whether~~witness agree to proceed by either (i) entirely by remote means (a "virtual deposition, the preference of the deponent") or (ii) in a manner that allows counsel to participate by remote means (a "hybrid deposition"). For witnesses residing outside the United States, depositions shall prevail. ~~For any~~proceed as a virtual deposition ~~that proceeds in person, a videoconference platform will be available for parties who chose to participate remotely, unless the witness requests that the deposition proceed in person.~~

C. Procedures Applicable to Virtual and Hybrid Depositions

1. Place of Examination.

As used in Fed. R. Civ. P. 28(a)(1)(A), the "place of examination" is the location of the deponent.

2. Other Recording.

No participant other than the court-reporting agency and videographer (after appropriate notice) may record by video, photograph, or audio any of the proceedings. This shall include recording using any form of virtual transmitting device, computer recording device, laptops, camera, and personal device, including smart phones, tablets, iPads, Androids, iPhones, or other

PDAs. Nothing in this provision prevents or limits the taking of notes by those identified on the record.

3. Conduct of Deponent.

While on the record the deponent will not use any communication device other than those to facilitate the deposition. While on the record, the deponent will not privately confer with anyone between a question and an answer except for the purpose of determining the existence and questions of privilege. This ~~Order~~stipulation does not govern the conduct of anyone while not on the record.

4. Contact with the Deponent During a Virtual Deposition.

While on the record, no one will communicate with the deponent outside of the video/audio stream. This includes, but is not limited to, instant messaging, text messaging, or any equivalent. In the event any such communications occur, ~~such~~the parties agree that the communications are discoverable.

5. Identification of Individuals in Attendance.

Every person attending the deposition shall be identified on the record at the commencement of the deposition or upon later entry permitted by the court reporter. Persons attending by telephone must identify themselves by name and by telephone number. Under no circumstances may persons attend the deposition virtually in any manner without identifying themselves on the record at the commencement of the deposition or when admitted later by the court reporter.

6. Conduct by Participants Appearing Virtually.

In addition to the provisions set forth above, each participant should attend from a quiet location. All attendees other than the deponent, court reporter, deposing attorney, and objecting attorney will set their audio connection to mute to avoid unintentional noise.

7. Use of Deposition Testimony.

Testimony given during a virtual or hybrid deposition may be used to the same extent that in-person deposition testimony may be used consistent with the Rules. The Parties expressly

waive all objections to the admissibility of any testimony given during a virtual or hybrid deposition based solely on the fact that it was given at a virtual or hybrid deposition. Testimony given during a virtual or hybrid deposition, including both the transcript and video record, if any, may be used at a trial, at hearings, in motions, or in other modes in these proceedings to the same extent that in-person deposition testimony may be used at trial, at hearings, in motions, or in other modes in this proceeding.

~~Objections~~

~~Any objections to proceeding with a virtual deposition shall be raised promptly after receipt of the deposition notice. In the case of a non-party witness that has been subpoenaed prior to the entry of this Order, such objections shall be raised promptly after receipt of this Order. In the event that one or more such objections are raised, the parties, and any non-party witness, if applicable, shall meet and confer to resolve the objection(s) before seeking relief from the Court, in the case of a party, or, in the case of a nonparty, before the court where compliance is required pursuant to Fed. R. Civ. P. 45(d). If the parties and the non-party witness (if applicable) cannot resolve the dispute, then the party or non-party seeking an in-person deposition shall move the Court for good cause to do so and the deposition shall proceed as noticed absent an order from the Court.~~

D. Procedures Applicable Only to Virtual Depositions.

8.1. Court Reporter and Videographer.

A court reporter may administer an oath concerning a virtual deposition. The Parties ~~shall agree~~ not to challenge the validity of any oath administered by the court reporter, even if the court reporter is not a notary public in the state where the deponent resides. The parties stipulate, in accordance with Federal Rules of Civil Procedure, that the court reporter or videographer (if noticed) may participate in the virtual deposition, and that the deposition will be deemed to have been conducted “before” that officer, even though the officer is not physically present with the

deponent, so long as that officer is able to identify the deponent. The court reporter will at all times have access to the same interface as the witness.

9.2. Physical Presence with Deponent.

For virtual depositions, the only people permitted in the same room as the deponent are attorneys representing the deponent. The deponent and each attorney will each have their own computer with camera, and individual or shared audio feeds via microphone or telephone.

10.3. Technology Requirements.

All virtual depositions will be stenographically recorded by a court reporter with real-time feed capabilities. The deponent, the attorney defending the deponent, and the attorney for any Party questioning the deponent must have a webcam-equipped device (such as a desktop, laptop, or tablet), and a device with audio-capabilities or access to a telephone for calling into the deposition, and will allow themselves to be seen and heard at all times while on the record. Unless directed otherwise by the court reporter, all other attendees will turn video off such that their names appear instead of their images (but they may view the video feed of the deposition). Before proceeding with a remote deposition, the deponent or their counsel shall confirm that the deponent has access to the required equipment on the day of the deposition and that any equipment checks or tests (as instructed by the deposition services vendor) have been completed prior to the deposition.

11.4. Exhibits.

All virtual depositions shall be conducted using a technology platform that allows for the electronic marking and sharing of exhibits. The technology platform for exhibits should allow the deponent to increase the size of the exhibit and scroll through a multi-page exhibit so that the deponent may review the entire document. Alternatively, at the discretion of any Party questioning the deponent, such Party may transmit each exhibit, either in advance of the deposition or as each exhibit is introduced, to the court reporter, the deponent, the attorney defending the deponent, and any other counsel appearing on the record at the deposition, via email or file-sharing link. If the exhibits are transmitted in advance of the deposition, any person

1 receiving said exhibits agrees not to open or review the exhibits except at the direction of the
2 attorney questioning the witness. Any copies of exhibits electronically downloaded but not used
3 at the deposition are courtesy copies and shall be destroyed immediately after the conclusion of
4 the virtual deposition.

5 **12.5. Disruptions.**

6 In the event the video feed for the deponent, the attorney defending the deponent, the
7 attorney questioning the deponent, is interrupted or otherwise becomes hidden from view, the
8 deposition will be suspended. The deposition will resume only when all video streams have been
9 restored. If the video feed of the attorney defending the deponent or the attorney questioning the
10 deponent is interrupted, that attorney may request that any portion of the virtual deposition that
11 was transcribed while they were disconnected be re-read, and that they be provided an
12 opportunity to object to any questions or answers that occurred in their absence. Disruptions due
13 to video streaming, phone line interruption, or other technical problems shall not be counted
14 against record time. Should technical issues materially interfere with the parties' ability to take
15 any deposition pursuant to this Order Stipulation on the scheduled date and such technical issues
cannot be remedied in a timely manner, the Parties shall meet, confer, and reasonably cooperate
with one another and the witness to reschedule the deposition.

16 **E. Procedures Applicable Only to Hybrid Depositions.**

17 **1. Technology Requirements.**

18 All hybrid depositions shall have a live video feed of the deponent, as well as a live audio
19 feed of the deponent, the attorney questioning the deponent, and the attorney defending the
20 deponent, made available to any attorney for a Party who attends the deposition by remote
21 means.

22 **2. Exhibits.**

23 All hybrid depositions shall be conducted using a technology platform that allows for the
24 electronic marking and sharing of exhibits by any attorney for a Party that attends the deposition
and questions the deponent by remote means. The technology platform for exhibits should allow

the deponent to increase the size of the exhibit and scroll through a multi-page exhibit so that the deponent may review the entire document. Alternatively, at the discretion of any Party questioning the deponent, such Party may transmit each exhibit, either in advance of the deposition or as each exhibit is introduced, to the court reporter, the deponent, the attorney defending the deponent, and any other counsel appearing on the record at the deposition via email or file-sharing link. If the exhibits are transmitted in advance of the deposition, any person receiving said exhibits agrees not to open or review the exhibits except at the direction of the attorney questioning the witness. Any copies of exhibits electronically downloaded but not used at the deposition are courtesy copies and shall be destroyed immediately after the conclusion of the virtual deposition.

3. Disruptions.

In the event the video feed for an attorney questioning the deponent by remote means is interrupted, the deposition will be suspended. The deposition will resume only when the video streams has been restored. The attorney questioning the deponent may request that any portion of the virtual deposition that was transcribed while they were disconnected be re-read, and that they be provided an opportunity to object to anything that occurred in their absence. Disruptions due to video streaming, phone line interruption, or other technical problems shall not be counted against record time. Should technical issues materially interfere with the parties' ability to take any deposition pursuant to this Stipulation on the scheduled date and such technical issues cannot be remedied in a timely manner, the Parties shall meet, confer, and reasonably cooperate with one another and the witness to reschedule the deposition.

D.F. Other Provisions

1. Costs.

Noticing counsel is responsible for retaining, and covering the cost of the court reporter, videographer, and any other vendor retained to assist with any deposition. For any non-party depositions where the Parties have noticed a deposition for the same day, the Parties will meet and confer regarding which vendor(s) to use. Plaintiffs and Amazon will split the costs evenly

for the deposition services that both sides request. Each Party will bear its own costs for copies of transcripts, copies of video recordings of any deposition, and any other unique services obtained by a Party.

2. Notice to Non-Parties.

This ~~Order~~ Stipulation shall be provided to any non-party witness or such non-party witness's counsel concurrently with the service of any subpoena that requests a virtual deposition, and the deposition shall proceed by remote means only if said non-party agrees to the provisions of this Stipulation.

3. Modifications.

The parties may modify the provisions of this ~~Order~~ Stipulation as they apply to an individual deposition by the agreement of all parties.

[PROPOSED] ORDER

IT IS SO ORDERED

Dated this ___ day of _____, _____, 2024

JOHN H. CHUN
UNITED STATES DISTRICT JUDGE

s/ Thomas J. Miller
SUSAN A. MUSSER (DC Bar # 1531486)
EDWARD H. TAKASHIMA (DC Bar # 1001641)
THOMAS J. MILLER (PA Bar # 316587)
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580
Tel.: (202) 326-2122 (Musser)
(202) 326-2464 (Takashima)
Email: smusser@ftc.gov
etakashima@ftc.gov

1 ~~tmiller2@fte.gov~~

2 ~~Attorneys for Plaintiff Federal Trade Commission~~

s/ Michael Jo
Michael Jo (admitted *pro hac vice*)
Assistant Attorney General, Antitrust Bureau
New York State Office of the Attorney General
28 Liberty Street
New York, NY 10005
Telephone: (212) 416-6537
Email: Michael.Jo@ag.ny.gov
Counsel for Plaintiff State of New York

s/ Rahul A. Darwar
Rahul A. Darwar (admitted *pro hac vice*)
Assistant Attorney General
Office of the Attorney General of Connecticut
165 Capitol Avenue
Hartford, CT 06016
Telephone: (860) 808-5030
Email: Rahul.Darwar@ct.gov
Counsel for Plaintiff State of Connecticut

s/ Alexandra C. Sosnowski
Alexandra C. Sosnowski (admitted *pro hac vice*)
Assistant Attorney General
Consumer Protection and Antitrust Bureau
New Hampshire Department of Justice
Office of the Attorney General
One Granite Place South
Concord, NH 03301
Telephone: (603) 271-2678
Email: Alexandra.c.sosnowski@doj.nh.gov
Counsel for Plaintiff State of New Hampshire

s/ Robert J. Carlson
Robert J. Carlson (admitted *pro hac vice*)
Assistant Attorney General
Consumer Protection Unit
Office of the Oklahoma Attorney General
15 West 6th Street, Suite 1000
Tulsa, OK 74119
Telephone: (918) 581-2885
Email: robert.carlson@oag.ok.gov
Counsel for Plaintiff State of Oklahoma

s/ Timothy D. Smith
Timothy D. Smith, WSBA No. 44583
Senior Assistant Attorney General
Antitrust and False Claims Unit
Oregon Department of Justice
100 SW Market St
Portland, OR 97201

1 Telephone: (503) 934-4400
2 Email: tim.smith@doj.state.or.us
3 *Counsel for Plaintiff State of Oregon*

4 *s/ Jennifer A. Thomson*
5 Jennifer A. Thomson (admitted *pro hac vice*)
6 Senior Deputy Attorney General
7 Pennsylvania Office of Attorney General
8 Strawberry Square, 14th Floor
9 Harrisburg, PA 17120
10 Telephone: (717) 787-4530
11 Email: jthomson@attorneygeneral.gov
12 *Counsel for Plaintiff Commonwealth of Pennsylvania*

13 *s/ Michael A. Undorf*
14 Michael A. Undorf (admitted *pro hac vice*)
15 Deputy Attorney General
16 Delaware Department of Justice
17 820 N. French St., 5th Floor
18 Wilmington, DE 19801
19 Telephone: (302) 683-8816
20 Email: michael.undorf@delaware.gov
21 *Counsel for Plaintiff State of Delaware*

22 *s/ Christina M. Moylan*
23 Christina M. Moylan (admitted *pro hac vice*) Assistant Attorney General
24 Chief, Consumer Protection Division
25 Office of the Maine Attorney General
26 6 State House Station
27 Augusta, ME 04333-0006
Telephone: (207) 626-8800
Email: christina.moylan@maine.gov
Counsel for Plaintiff State of Maine

28
29
30 *s/ Gary Honick*
31 Gary Honick (admitted *pro hac vice*)
32 Assistant Attorney General
33 Deputy Chief, Antitrust Division
34 Office of the Maryland Attorney General
35 200 St. Paul Place
36 Baltimore, MD 21202
37 Telephone: (410) 576-6474
Email: Ghonick@oag.state.md.us
Counsel for Plaintiff State of Maryland

38 *s/ Katherine W. Krems*
39 Katherine W. Krems (admitted *pro hac vice*)
40 Assistant Attorney General, Antitrust Division

~~Office of the Massachusetts Attorney General
One Ashburton Place, 18th Floor
Boston, MA 02108
Telephone: (617) 963-2189
Email: katherine.krems@mass.gov
Counsel for Plaintiff Commonwealth of Massachusetts~~

~~s/ Scott A. Mertens
Scott A. Mertens (admitted *pro hac vice*)
Assistant Attorney General
Michigan Department of Attorney General
525 West Ottawa Street
Lansing, MI 48933
Telephone: (517) 335-7622
Email: MertensS@michigan.gov
Counsel for Plaintiff State of Michigan~~

~~s/ Zach Biesanz
Zach Biesanz (admitted *pro hac vice*)
Senior Enforcement Counsel
Office of the Minnesota Attorney General
445 Minnesota Street, Suite 1400
Saint Paul, MN 55101
Telephone: (651) 757-1257
Email: zach.biesanz@ag.state.mn.us
Counsel for Plaintiff State of Minnesota~~

~~s/ Lucas J. Tucker
Lucas J. Tucker (admitted *pro hac vice*)
Senior Deputy Attorney General
Office of the Nevada Attorney General
100 N. Carson St.
Carson City, NV 89701
Telephone: (775) 684-1100
Email: LTucker@ag.nv.gov
Counsel for Plaintiff State of Nevada~~

~~s/ Andrew Esoldi
Andrew Esoldi (admitted *pro hac vice*)
Deputy Attorney General
New Jersey Office of the Attorney General
124 Halsey Street, 5th Floor
Newark, NJ 07101
Telephone: (973) 648-7819
Email: andrew.esoldi@law.njoag.gov
Counsel for Plaintiff State of New Jersey~~

~~s/ Jeffrey Herrera~~

1 Jeffrey Herrera (admitted *pro hac vice*)
Assistant Attorney General
2 New Mexico Office of the Attorney General
408 Galisteo St.
3 Santa Fe, NM 87501
Telephone: (505) 490-4878
4 Email: jherrera@nmag.gov
Counsel for Plaintiff State of New Mexico

5 ~~*s/ Zulma Carrasquillo Almena*~~
6 ~~Zulma Carrasquillo Almena (admitted *pro hac vice*)~~
Puerto Rico Department of Justice
7 P.O. Box 9020192
San Juan, PR 00902-0192
8 Telephone: (787) 721-2900, Ext. 1211
Email: zcarrasquillo@justicia.pr.gov
9 *Counsel for Plaintiff Commonwealth of Puerto Rico*

10
11
12
13 ~~*s/ Stephen N. Provazza*~~
Stephen N. Provazza (admitted *pro hac vice*) Special Assistant Attorney General
14 Chief, Consumer and Economic Justice Unit
Department of the Attorney General
15 150 South Main Street
Providence, RI 02903
16 Telephone: (401) 274-4400
Email: sprovazza@riag.ri.gov
17 *Counsel for Plaintiff State of Rhode Island*

18 ~~*s/ Sarah L. J. Aceves*~~
Sarah L. J. Aceves (admitted *pro hac vice*)
19 Assistant Attorney General
Public Protection Division
20 Vermont Attorney General's Office
109 State Street
21 Montpelier, VT 05609
Telephone: (802) 828-3170
22 Email: sarah.aceves@vermont.gov
Counsel for Plaintiff State of Vermont

23 ~~*s/ Laura E. McFarlane*~~
24 Laura E. McFarlane (admitted *pro hac vice*)
Assistant Attorney General
25 Wisconsin Department of Justice
Post Office Box 7857
26 Madison, WI 53707-7857
Telephone: (608) 266-8911
27

1 ~~Email: mefarlanele@doj.state.wi.us~~
2 ~~Counsel for Plaintiff State of Wisconsin~~